

September 18, 2023

VIA CM/ECF

Hon. Gregory H. Woods
United States District Court, Southern District of New York
500 Pearl Street, Room 1920, New York, NY 10007

Re: *U.S. Bank National Association, et al. v. The Charitable Donor Advised Fund, L.P. and CLO HoldCo Ltd.*, Case No. 1:21-cv-11059-GHW (S.D.N.Y.)

Dear Judge Woods,

Plaintiffs/Counter-Defendants U.S. Bank National Association, in its capacity as trustee, (“U.S. Bank”), Acis Capital Management, L.P. (“ACM”), and Joshua N. Terry (collectively “Plaintiffs”) and Defendants/Counter-Plaintiffs Charitable DAF Fund, LP a/k/a The Charitable Donor Advised Fund, L.P. (“DAF”) and CLO HoldCo, Ltd. (“CLOH”) (collectively the “DAF Parties”) jointly submit this letter pursuant to Paragraph 1.E of the Court’s Individual Rules of Practice in Civil Cases to request a brief extension of the briefing deadlines for Plaintiffs and Highland CLO Funding, Ltd.’s (“HCLOF”) motions to dismiss (Dkts. 176-177, the “Motions to Dismiss”). This is the third request for an extension of these deadlines. Plaintiffs and the DAF Parties mutually consent to this request. HCLOF consents to the request to extend the Motions to Dismiss briefing deadlines regarding HCLOF’s pending motion to dismiss (Dkt. 177) but takes no position on the extension regarding Plaintiffs’ pending motion to dismiss (Dkt. 176).

The Rule 30(b)(6) corporate representative deposition of U.S. Bank (the “U.S. Bank Deposition”) was scheduled to be taken today, September 18, 2023, by the DAF Parties’ lead counsel, Mr. Sawnie McEntire. Unfortunately, Mr. McEntire was diagnosed with the Flu yesterday and the U.S. Bank Deposition was postponed by agreement of the Parties. The Court has already entered an order (Dkt. 191) permitting the U.S. Bank Deposition to be taken after the September 15, 2023, close of fact discovery.

In connection with Mr. McEntire’s illness, however, the DAF Parties and Plaintiffs, with HCLOF’s consent, respectfully seek a further extension of the briefing deadlines for the Motions to Dismiss. The Parties request that the Court extend the DAF Parties’ deadline to oppose the Motions to Dismiss from September 19, 2023, until September 22, 2023, and extend Plaintiffs’ and HCLOF’s deadline to file replies, if any, from October 13 to October 19, 2023.

The Parties thank the Court for its consideration and attention to this matter.

In making this request, none of the parties making or consenting to this request waive any of their respective substantive or procedural rights, all of which they respectively reserve.

Respectfully Submitted,

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